

REMARKS

First, Applicants wish to thank the Examiner for the thorough examination. In the Office Action of March 16, 2005, the Examiner rejected Claims 1-21, of which Claims 1, 12, and 17 are of independent form. Applicants traverse the rejections of Claims 1-21. Nonetheless, Claims 1, 12, and 17 have been amended, without prejudice. The amendments are not meant to be limiting in any way and are not made for purposes of patentability. Rather, the amendments were made in an effort to advance prosecution of this application. Claim 1 has also been amended to correct a minor typing mistake. Applicants also added Claim 22. No new matter has been added. Applicants respectfully request reconsideration.

REJECTION UNDER 35 U.S.C. § 101

In the Office Action, the Examiner rejected Claims 1-8, 12-16, and 17-21 under 35 U.S.C. § 101. Applicants believe the rejected claims are directed to statutory subject matter. As stated by the U.S. Patent and Trademark Office, “an abstract idea when practically applied to produce a useful, concrete and tangible result satisfies Section 101.” (See, e.g., <http://www.uspto.gov/web/menu/pbmethod/trangmaterials.ppt>). Applicants’ rejected claims produce a useful, concrete and tangible result, and therefore Applicants believe the rejected claims fall within statutory subject matter.

Nonetheless, in an effort to advance prosecution of this application, Applicants respectfully amend independent Claims 1, 12, and 17, without prejudice. As amended, the methods of Claims 1 and 12 recite a microprocessor, and each component of Claim 17 has stored therein a set of instructions for performing the steps recited in Claim 17. Having a microprocessor or a set of instructions stored on a component to perform a

specific step is by itself a physical aspect within the technological arts. New Claim 22 is directed to a computer readable medium, which also falls within the technological arts. Thus, all claims clearly meet the statutory subject requirement of 35 U.S.C. § 101.

REJECTION UNDER 35 U.S.C. § 112 FIRST PARAGRAPH

The Examiner rejected claims 1-16 under 35 U.S.C. §112, first paragraph, for lack of enabling disclosure. Applicants respectfully disagree and submit that the rejected claims were enabled. However, in view of the amendments to Claims 1 and 12, Applicants believe that these rejections are moot. Accordingly, withdrawal of the rejection is respectfully solicited.

Applicants' respectfully submit that the written description in the Applicants' specification enables one skilled in the art to practice the claimed embodiments. Amended Claim 1 recites "sending an order on behalf of a trader from a first electronic market to a second electronic market, the order being sent using a microprocessor executing one or more instructions." For example, Applicants' specification discloses Figure 3 illustrating an example set of components of an electronic market, description of which can be found on page 18. In another example, Applicants' specification includes Figure 4 that depicts a flowchart with an example set of steps that can be taken to achieve functionality and operation of the claimed embodiments. The written description of various embodiments corresponding to each step of the flowchart can be found on pages 19-28. Applicants' Claim 12 includes the steps shown and described in the Applicants' specification in relation to the flowchart of Figure 4.

REJECTION UNDER 35 U.S.C. § 112 SECOND PARAGRAPH

In the Office Action, Claims 17-21 were rejected under 35 U.S.C. § 112, second paragraph, because, according to the Examiner, the term “system” used in the referenced claims does not clearly determine the statutory class of the invention. Also, the Examiner rejected Claim 17 stating that a “component” recited in the claim is vague and indefinite. Applicants respectfully disagree.

Applicants believe that amended Claim 17 falls within a statutory class of at least apparatus. As described in the Applicants’ specification, each component recited in Claim 17 could be located on the same or different entities.

According to M.P.E.P. 2106.II.C., “Review of Claims” section, “the discrete physical structures or material may be comprised of hardware or combination of hardware and software,” and the Applicants’ specification does not limit the component to either one. Also, each component of Claim 17, as well as the functionality performed by each component, is fully described in the Applicants’ specification, such as, for example, in reference to the description of Figures 3 and 4. Thus, the use of “component” in amended Claim 17 is not vague or indefinite.

Applicants contend that each of the rejected claims meets the statutory requirements of 35 U.S.C. §112.

REJECTION UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over Keith in view of Nordlicht. Applicants traverse these rejections, and respectfully request reconsideration.

Each independent claim of the Applicants' application recites one or more actions being taken by an electronic market on behalf of a trader. For example, according to the Applicants' specification, a trader can log onto an electronic market to trade one or more tradeable objects. The electronic market can implement numerous types of order execution algorithms to match traders' orders. The electronic market can also be programmed to take an action on behalf of the trader. (See, e.g., Applicants' specification, page 11, lines 6-7, and page 12, lines 1-2). Examples of different actions that can be taken by the electronic market are described in the Applicants' specification.

As explained in the Applicants' specification, there are many advantages for enabling an electronic market to act on behalf of a trader. The claimed configuration, as described in the Applicants' specification, effectively results in offloading the trader-side software from performing tasks that may be completed more efficiently at an electronic market side. (See, e.g., Applicants' specification, page 34, lines 1-6). Also, an electronic market can take an action faster than a trader would be able to do so, thus, resulting in, among other things, a higher order queue priority. (See, e.g., Applicants' specification, page 32, lines 13-22). Many other advantages of performing actions on behalf of a trader by an electronic market are described in the Applicants' specification on pages 32-35.

Referring now to the first reference cited by the Examiner, Keith is merely directed to a routing system, in which trading processes route orders from order rooms to market processes. (See, e.g., Keith, Abstract). In Keith, the routing decision is performed at the platform of the system positioned on the path between the order rooms 70, 72, and the external markets 80, 82, and 83. (See, e.g., Keith, Figure 1 and paragraph 0048).

Keith does not disclose or suggest one of its external markets taking an action on behalf of a trader, and therefore does not result in offloading the trader-side software from performing certain actions that could be more effectively performed by an electronic market. Rather than offloading the trader-side software, Keith requires the routing platform to communicate with an order room and await a decision from the order room even before an order is routed to a market selected by the platform. Thus, Applicants respectfully submit that Keith is not relevant.

With respect to Applicants' Claim 12, the Examiner admits that Keith does not explicitly disclose "monitoring external data" or "automatic modification of an order by the market." The Examiner also admits that Keith does not disclose "sending the order or message, all from a first electronic market to a second electronic market."

The Examiner further relied on Nordlicht. However, Nordlicht does not overcome deficiencies of Keith. Nordlicht is directed to a trading system including two client devices 108 and 110 that can communicate with a clearinghouse device 104, as shown in Nordlicht's Figure 1. According to Nordlicht, when traders at both client devices attempt to complete a transaction, and one of the traders lacks credit worthiness so that the second trader declines to accept the transaction, the client device forwards the transaction for completion to the clearinghouse 104. The clearinghouse 104 can then access and use information about account balance for the trader lacking credit worthiness to finalize the transaction. (See, e.g., Nordlicht, [0039]). By sending a request to the clearinghouse 104, the client devices complete their transaction. (Id.).

Nordlicht does not disclose, teach, or suggest an electronic market taking an action on behalf of a trader, such as "sending an order on behalf of a trader from a first

electronic market to a second electronic market,” as claimed in Applicants’ Claim 1. Rather, Nordlicht discloses a system that assists in eliminating a counterparty risk by finalizing a transaction-initially conducted between two traders at their client devices-at a clearinghouse that acts as a settlement agent. Rather than looking at a trader’s creditworthiness, the clearinghouse in Nordlicht looks into an individual trader who is a member of the clearinghouse and who carries an account to secure all payments. (See, e.g., Nordlicht, [0023]).

Individually and in combination, Nordlicht and Keith do not disclose, teach, or suggest the Applicants’ claimed invention.

For the foregoing reasons, Applicants respectfully request reconsideration.

CONCLUSION

In view of the reasons provided above, Applicants submit that the invention as claimed in independent Claims 1, 12, 17, and 22 patentably distinguish over the Keith and Nordlicht references, either in combination or as they stand alone. Each dependent claim adds further limitations supporting individual allowability based on the detailed discussion for Claims 1, 12, and 17 provided above. Therefore, Applicants submit that each of these claims is in condition for allowance, and Applicants respectfully request favorable reconsideration. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Monika Dudek at (312) 476-1118 or the undersigned attorney/agent.

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